

National Aeronautics and Space Admin.

§ 1207.102

[(D) Repealed. Pub. L. 98-620, Title IV, 402(2), Nov. 8, 1984, 98 Stat. 3335, 3375.]

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any Agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether Agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the Agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

Subpart 9—Annual Report

§ 1206.900 Requirements for annual report.

On or before February 1 of each year, NASA shall submit a report covering the preceding fiscal year to the Department of Justice.

PART 1207—STANDARDS OF CONDUCT

Subpart A—General Provisions

Sec.

1207.101 Cross-references to ethical conduct, financial disclosure, and other applicable regulations.

1207.102 Waiver of statutory prohibition.

Subpart B—Post-Employment Regulations

1207.201 Scope of subpart.

1207.202 Exemption for scientific and technological communications.

AUTHORITY: 5 U.S.C. 7301; 42 U.S.C. 203(c)(1).

SOURCE: 52 FR 22755, June 16, 1987, unless otherwise noted.

Subpart A—General Provisions

§ 1207.101 Cross-references to ethical conduct, financial disclosure, and other applicable regulations.

Employees of the National Aeronautics and Space Administration (NASA) should refer to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the NASA regulation at 5 CFR part 6901 which supplements the executive branch-wide standards with respect to prohibitions and prior approval requirements applicable to certain outside employment activities, the Office of Personnel Management provisions on employee responsibilities and conduct at 5 CFR part 735, and the executive branch-wide financial disclosure regulation at 5 CFR part 2634.

[59 FR 49333, Sept. 28, 1994]

§ 1207.102 Waiver of statutory prohibition.

(a) *Specific waiver available.* The prohibition of 18 U.S.C. 208(a) may be waived in connection with a specific matter of the type which comes under the statute if the employee makes a full disclosure in writing of the nature of the matter involved and of the financial interest relating thereto and receives, in advance of participation in such matter, a written determination that such financial interest is not so substantial as to affect the integrity of the employee's services and, therefore, that the employee may participate personally and substantially in that matter. The procedures set forth in paragraph (c) of this section will be followed in connection with granting a waiver as described in this section.

(b) *General waivers.* The prohibition of 18 U.S.C. 208(a) also may be waived by general regulation applicable to all NASA employees so as to permit an employee (including civilian and military personnel of other Government agencies regularly detailed to NASA) to participate personally and substantially in a specific matter, notwithstanding the existence of a financial interest relating to that matter, where

it has been determined that such a financial interest is too remote or inconsequential to affect the integrity of the employee's governmental capacity. Such a determination has been made by the Administrator and published in the FEDERAL REGISTER with respect to the following categories of financial interest:

(1) The following exemptions apply to financial interests which are held directly by a NASA employee, or by the employee's spouse or minor child, whether jointly or individually, or by a NASA employee and the employee's partner or partners as joint assets of the partnership:

(i) Ownership of shares of common or preferred stocks, including warrants to purchase such shares, and of corporate bonds or other corporate securities, if the current aggregate market value of the stocks and other securities so owned in any single corporation does not exceed \$5,000, and provided such stocks and securities are listed for public trading on a major stock exchange. This exemption extends also to any financial interests that the corporation whose stocks or other securities are so owned may have in other business entities. This exemption shall not apply to membership on boards or committees constituted as part of the NASA Source Evaluation Board (SEB) process unless specific written approval for such membership is obtained from the Designated Agency Ethics Official.

(ii) Ownership of bonds other than corporate bonds, regardless of the value of such interest. This exemption extends also to any financial interests that the organization whose bonds are so owned may have in other business entities.

(iii) Ownership of shares in a widely diversified mutual fund or regulated investment company regardless of the value of such interests. This exemption extends also to any financial interests that the mutual fund or investment company may have in other business entities.

(2) If a NASA employee or the employee's spouse or minor child has a present beneficial interest or a vested remainder interest under a trust, the ownership of stocks, bonds, or other corporate securities under the trust

will be exempt to the same extent as provided in paragraph (b)(1)(i) of this section for the direct ownership of such securities. The ownership of bonds other than corporate bonds, or of shares in a mutual fund or regulated investment company, under the trust will be exempt to the same extent as provided under paragraphs (b)(1)(ii) and (b)(1)(iii) of this section, for the direct ownership of such bonds or shares.

(3) If a NASA employee is an officer, director, trustee, or employee of an educational institution, or if the employee is negotiating for, or has an arrangement concerning prospective employment with such an institution, a direct financial interest which the institution has in any matter will not itself be exempt, but any financial interest that the institution may have in the matter through its holdings of securities issued by business entities will be exempt, provided the NASA employee is not serving as a member of the investment committee of the institution or is not otherwise advising it on its investment portfolio.

(4) If a NASA employee has continued to participate in a bona fide pension, retirement, group life, health or accident insurance plan, or other employee welfare or benefit plan that is maintained by a business or nonprofit organization of which the employee is a former employee, the employee's financial interest in that organization will be exempt, except to the extent that the welfare or benefit plan is a profit sharing or stock bonus plan. This exemption extends also to any financial interests that the organization may have in other business activities.

(c) *Procedures for specific waiver.* (1) The written request for a waiver will describe the specific matter involved, the nature and extent of the employee's participation therein, and the exact nature and amount of financial interest relating to the specific matter.

(2) Employees who are key officials, or who are appointed under authority of section 203(c)(2)(A) ("NASA Excepted Positions") or section 203(c)(10) ("Alien Scientists") of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(2)(A) and 2473(c)(10)), or under 5 U.S.C. 3131 et seq. (Senior Executive Service), will forward the request

to the Administrator. It shall be submitted through the appropriate Chief Counsel or General Counsel and the appropriate Director of a Field or Component Installation or Official-in-Charge of a Headquarters Office, who will transmit the request to the Administrator with comments and recommendations on the proposed waiver. The determination required by the statute will be made only by the Administrator or Deputy Administrator in the case of these employees.

(3) All other employees will forward their requests for a waiver through the appropriate Chief Counsel or General Counsel to the appropriate Director of a Field or Component Installation or Official-in-Charge of a Headquarters Office. For Headquarters employees, the Associate Administrator for Management is authorized to make the determination required by the statute. For employees at an installation, the Directors of Field and Component Installations, and their Deputies are authorized to make the determination required by the statute. This authority may not be redelegated.

(4) A copy of waiver granted by the Director of a Field or Component Installation shall be forwarded to the Associate Administrator for Management, NASA Headquarters.

[52 FR 22755, June 16, 1987, as amended at 53 FR 4606, Feb. 17, 1988. Redesignated at 59 FR 49338, Sept. 28, 1994]

Subpart B—Post-Employment Regulations

SOURCE: 54 FR 4003, Jan. 27, 1989; 55 FR 9250, Mar. 12, 1990, unless otherwise noted. Redesignated at 59 FR 49338, Sept. 28, 1994.

§ 1207.201 Scope of subpart.

This subpart provides guidance to former NASA government employees who are subject to the restrictions of Title V of the Ethics of Government Act of 1978, as amended, and who want to communicate scientific or technical information to NASA.

§ 1207.202 Exemption for scientific and technological communications.

(a) Whenever a former government employee who is subject to the constraints of post-employment conflict of

interest, 18 U.S.C. 207, wishes to communicate with NASA under the exemption in section 207(j)(5) for the making of a communication solely for the purpose of furnishing scientific or technological information, he or she shall state to the NASA employee contracted, the following information:

(1) That he or she is a former government employee subject to the post employment restrictions of 18 U.S.C. 207 (a), (c), or (d)—specify which;

(2) That he or she worked on certain NASA programs—enumerate which; and

(3) That the communication is solely for the purpose of furnishing scientific or technological information.

(b) If the former government employee has questions as to whether the communication comes within the scientific and technological exemption, he or she should contact the General Counsel, the designated agency ethics official.

[54 FR 4003, Jan. 27, 1989; 55 FR 9250, Mar. 12, 1990. Redesignated and amended at 59 FR 49338, Sept. 28, 1994]

PART 1208—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

AUTHORITY: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note).

EDITORIAL NOTE: For additional information, see related documents published at 50 FR 8953, March 5, 1985, 52 FR 18768, May 19, 1987, and 52 FR 45667, December 1, 1987.

§ 1208.1 Uniform Relocation Assistance and Real Property Acquisition.

Regulations and procedures for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, 101 Stat.